

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-3283-2017

Date of decision: 30.7.2018

M/s J.K. Enterprises

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.Shekhar Kumar, Advocate for the petitioner

Mr.Aseem Aggarwal, Advocate for respondent No.1.

Ms.Deepali Puri, Addl.AG, Punjab
for respondent Nos. 2 and 3

Mr.Sundeep Kumar, Advocate for respondent No.4

Mr.TS Sidhu, Advocate for respondent No.5.

Mr.Sumit Jain, Advocate for respondent No.6.

JITENDRA CHAUHAN, J.

The present petition under Articles 226/227 of the Constitution of India has been filed for quashing (i) the action of the respondents in charging 60% costs including interest of 'once used gunny bags'; (ii) Clause 18(g) of Custom Milling Policy of KMS 2011-12 (Annexure P3) and; (iii) Clause 21 (a) of the Agreement dated 14.10.2011 (Annexure P-1) entered into between the parties.

The case of the petitioner is that an agreement dated 14.10.2011

(Annexure P-1) was executed between the parties for allotment of paddy to the petitioner for milling pertaining to crop year 2011-12. In pursuance thereto, 329,791 bags of paddy weighing 1,15,401.65 quintals were supplied to the petitioner Mill. After milling the paddy, rice was supplied to respondent No.5- PUNSUP. The respondents have charged an amount of Rs.10,02,385/- as the costs of “ 39,767 once used gunny bags” alongwith interest at the rate of 60% of the original costs of bags from the petitioner. It is this action of the respondents which has been impugned in the present writ petition.

On the other hand, the respondents have admitted the factum of milling and the delivery of rice, however, the stand of the respondents is that the as per Jute Packaging Material (Compulsory Use in Packaging Commodity) Act, 1987, the use of jute bags is compulsory for packaging of food grains. As the production of the State is more than its milling, the rice is to be stored for a longer period. The texture of once used gunny bag becomes weak after its use. The paddy is to be packed in high quality bags to avoid any quality deterioration and loss in quantity of food grains due to spillage caused by bursting of once used bag. In case the paddy is stored in used bags, there is every likelihood that the quality of the same would be deteriorated and this would result into loss to the public exchequer. The quality specification for the gunny bags is notified by the Bureau of Indian Standard, the Jute Commissioner of India issues production control order to various manufacturers. The practice of procurement of gunny bags is

adopted to ensure that the quality of food grains does not get affected on account of sub standard packaging material.

It is contended by the learned counsel for the petitioner that the action of the respondents in charging 60% costs for once used gunny bags is violative of Article 19 (g) of the Constitution of India and Section 27 of the Contract Act.

Learned counsel for the respondents has contended that the amount is being charged on account of once used gunny bags being retained by the firm. It is further contended that the price of the gunny bags has been set as per the norms fixed by Bureau of Indian Standard.

Heard.

The sole controversy raised in the present writ petition revolves around the fact as to whether the State is justified in charging costs of once used gunny bags and whether the costs of gunny bags is on the higher side? This Court has examined the material placed on record and has gone through the Jute Packaging Material (Compulsory Use in Packaging Commodity) Act, 1987. The purpose of Act is to preserve rice, the receipt of which normally remains on account of higher production and less consumption in the region. Thus, the object sought to be achieved by use of fresh gunny bags cannot be said to be illegal. As regards the costs of gunny bags as stated by learned counsel for the respondents, the same is as per the standard prescribed by the Bureau of Indian Standard. Accordingly, this Court does not find any reason to interfere in the matter inasmuch as it is a

policy matter of the Government to prescribe the rates for the gunny bags. The Policy is uniform in nature and it is not that the petitioner is being treated in a different and disadvantageous manner. The action of the respondent is legal and valid.

In view of the above, this Court finds no merit in the present writ petition. As such, the present petition is dismissed.

30.7.2018
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?	Yes	/	No
Whether reportable?	Yes	/	No